

Notice
of
Rulemaking

Tennessee Regulatory Authority

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of rules and the amendment of rules pursuant to Tennessee Code Annotated, Section 65-2-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Hearing Room of the Tennessee Regulatory Authority Building, 460 James Robertson Parkway, Nashville, Tennessee at 1:30 p.m. on the 17th day of December, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Tennessee Regulatory Authority to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the agency's ADA Coordinator at 460 James Robertson Parkway, Nashville, TN 37243-0505, and (615) 741-2904.

For a copy of this notice of rulemaking hearing, contact: K. David Waddell, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN, and (615) 741-2904.

Substance of Proposed Rules

Amendments

Chapter 1220-1-2 Practice and Procedure – Contested Cases is amended by adding the following new section:

1220-1-2-.15 Company to company complaints

- (1) Any company who files a formal complaint to initiate a contested case under rule 1220-1-2-.09 may request an expedited ruling when the dispute directly affects the ability of a company to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element. The Authority or a Hearing Officer has the discretion to determine whether the resolution of the complaint may be expedited based on the complexity of the issues or other factors deemed relevant. Except as specifically provided in this rule, the provisions and procedures of the rules relating to complaints and contested cases apply.
- (a) Any request for expedited ruling shall be filed at the same time and in the same document as the complaint filed pursuant to rule 1220-1-2-.09.

Such a complaint shall be entitled "Complaint and Request for Expedited Ruling." In addition to the requirements listed in rule 1220-1-2-.09, the complaint shall also state the specific circumstances that make the dispute eligible for an expedited ruling. The complainant shall serve a copy of the complaint on the respondent by hand-delivery or facsimile on the same day as it is filed with the Authority.

- (b) The respondent shall file a response to the complaint within seven (7) days after the filing of the complaint, including its position on the request for an expedited ruling. The respondent shall serve a copy of the response on the complainant by hand-delivery or facsimile on the same day as it is filed with the Authority.
 - (c) After reviewing the complaint and the response, the Hearing Officer or the Authority will determine whether the complaint warrants an expedited ruling. If so, the Hearing Officer or the Authority shall schedule a hearing, which shall commence no later than thirty (30) days after the filing of the complaint. The Hearing Officer or the Authority shall notify the parties, not less than three business days before the hearing of the date, time, and location of the hearing. If the Hearing Officer or the Authority determines that the complaint is not eligible for an expedited ruling, the Hearing Officer or Authority shall so notify the parties within five days of the filing of the response.
- (2) Any company who files a complaint to initiate a contested case under rule 1220-1-2-.09 with or without a "Request for Expedited Ruling" may also request interim relief pending the resolution of the merits, relating to the ability of a company to provide uninterrupted service or precludes the provisioning of scheduled service.
- (a) Any request for interim relief shall be filed at the same time and in the same document as the complaint. The title of the complaint shall include the phrase "Request for Interim Relief." The complaint shall set forth the specific grounds supporting the request for interim relief pending resolution of the dispute, as well as a statement of the potential harm that may result if interim relief is not provided. A complaint that includes a request for interim relief shall be verified by affidavit. Such complaint must list the contact person, address, telephone number, and facsimile number for both the complainant and respondent.
 - (b) The complainant shall serve a copy of the complaint and request for an interim relief on the respondent by hand-delivery or facsimile on the same day as the pleading is filed with the Authority. The complainant shall certify on the pleading filed with the Authority that service has been accomplished in compliance with this rule.

- (c) Within seven (7) days of the filing of a complaint and request for interim relief, the Hearing Officer or the Authority shall conduct a hearing to determine whether interim relief should be granted during the pendency of the contested case process. The Hearing Officer or the Authority will notify the parties of the date and time of the hearing by facsimile within forty-eight (48) hours of the filing of a complaint and request for interim relief. The parties shall be prepared to present their positions and evidence on factors including but not limited to: the type of service requested; the economic and technical feasibilities of providing that service; and the potential harm in providing or not providing the service. The Hearing Officer or the Authority will issue an interim ruling on the request based on the evidence provided at the hearing.
- (d) The Hearing Officer or the Authority shall issue a written ruling on the request within ten (10) days of the close of the hearing and will notify the parties by facsimile of the ruling. The interim ruling will be effective throughout the contested case proceeding until a final decision is issued pursuant to these rules.
- (3) For good cause shown, the Authority may waive the provisions of this section in order to prevent manifest injustice or hardship to the complaining party.

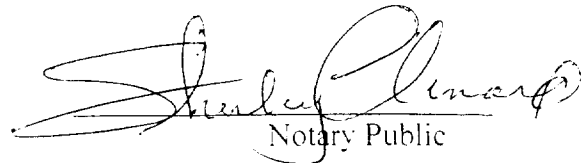
Authority: Tenn. Code Ann. §§ 65-2-102 and 103.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Regulatory Authority.



K. David Waddell
Executive Secretary

Subscribed and sworn to before me this the 31 day of October, 2001.


Notary Public

My Commission Expires ~~MAR 26 2005~~

My commission expires on the ^{31, Commission Expires 08/16/2008} _____ day of _____, _____.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of October, 2001.

Riley C. Darnell
Riley C. Darnell
Secretary of State

By: Sharon Gaur

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